

REMARKS

Claims 1-20 are pending in the application.

Claims 10 and 18 are objected to for informalities. Specifically, claims 10 and 18 were objected to because the claim started with 'Apparatus' instead of "An apparatus." This has been corrected by amendments to the claims above and withdrawal of this objection is requested.

The specification was objected to for failing to identify the serial number of the co-pending US Patent Application. The specification has been amended above. Withdrawal of this objection is requested.

Claims 3-5, 8, 13 and 16-17 are rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. These claims have been amended to overcome the lack of antecedent basis and to more clearly define that the end to end layer is the end to end physical layer. Withdrawal of this rejection is requested.

Claims 1-20 are rejected under 35 USC § 102(e) as being anticipated by Shaffer et al. (US Patent No. 6,324,409).

With regard to claims 1 and 14, Shaffer does not disclose a two-pass method for achieving maximal data compression for a voice frame *modem relay* channel. A modem relay channel is not telephony over the Internet. A modem relay channel, according to both the specification and the International Telecommunications Union, is a channel in which modem signals are demodulated, packetized and transmitted across a data network, remodulated and then transmitted to a receiving modem. It is a means allowing two endpoints having modems to exchange actual modem signals across a data network. There is no transcoding or voice compression involved. Any compression used in the modem relay channel is compression of modem signals, not voice signals. Indeed, referring to the specification, on page 6, voice compression is actively disabled.

While Shaffer mentions the use of other types of data than voice, the method of Shaffer is to determine the minimal number of transcodings, which is the coding of signals using voice coding, not to determine the maximum modem data compression.

Claims 1 and 14 have been amended to more clearly define the modem relay channel and the modem compression. It is therefore submitted that claims 1 and 14 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 2 and 15 claim transitioning the channel from a voice mode to a modem relay mode. As discussed above, Shaffer does not disclose a modem relay channel, much less transitioning to a modem relay mode from a voice mode. It is therefore submitted that claims 2 and 15 are patentably distinguishable over the prior art and allowance of these claims is requested.

It is therefore submitted that claims 3 and 16 are patentably distinguishable over the prior art for the reasons as applied to claims 1, 2, 14 and 15, and allowance of these claims is requested.

With regard to claim 4, Shaffer does not negotiate and the endpoints of a modem relay channel, where the physical layer of the modem is terminated at a gateway. It is therefore submitted that claim 4 is patentably distinguishable over the prior art and allowance of these claims is requested.

With regard to claim 5, Shaffer does not negotiate at the endpoints of a modem relay channel, much less that the system has to delay the negotiation because of one endpoint refusing respond. It is therefore submitted that claim 5 is patentably distinguishable over the prior art and allowance of these claims is requested.

With regard to claims 6 and 17, Shaffer does not disclose a modem relay channel, much less storing the end-to-end compression parameters of the modem relay channel. It is therefore submitted that claims 6 and 17 are patentably distinguishable over the prior art and allowance of these claims is requested.

With regard to claims 7 and 18, Shaffer does not disclose maximizing modem data compression between two modems. Shaffer is designed to minimize the number of transcodings used by voice codecs in the network between two calling parties. The signals being transcoded are not modem signals, but voice signals. In addition, there is no transcoding of the modem signals in the instant application. It is therefore submitted that claims 7 and 18 are patentably distinguishable over the prior art and allowance of these claims is requested.

With regard to claims 8 and 19, Shaffer does not disclose terminating an end-to-end physical layer between tow modems, or transitioning a channel from voice mode to modem relay mode, for the reasons as discussed with regard to claims 1 and 16. It is therefore submitted that claims 8 and 19 are patentably distinguishable over the prior art and allowance of these claims is requested.

With regard to claims 9 and 20, it is submitted that claims 9 and 20 are patentably distinguishable over the prior art for the reasons as applied to claims 6 and 17, and allowance of these claims is requested.

The prior art made of record and not relied upon has been reviewed and is not considered pertinent to Applicant's disclosure. No new matter has been added by this amendment. Allowance of all claims is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

Julie L. Reed

Julie L. Reed
Reg. No. 35,349

MARGER JOHNSON & McCOLLOM, P.C.
1030 SW Morrison Street
Portland, OR 97205
503-222-3613
Customer No. 20575